

## **Shall an ordinance entitled “2010 Amendments to the Basic Land Use Ordinance, Subdivision Ordinance and Definitions Addendum Regarding Workforce Housing” be enacted?**

The Town of Harpswell Basic Land Use, Subdivision Ordinance and Definitions Addendum shall be amended as follows: (deletions are ~~struck out~~ additions are underlined):

The Town of Harpswell Basic Land Use Ordinance shall be amended by inserting new sections as follows:

### **Section 11.18 Workforce Housing**

#### **11.18.1 Purpose**

The 2005 Harpswell Comprehensive Plan sets forth the need in Harpswell for the availability of Workforce Housing to maintain the diversity of Harpswell's population. To that end, this Section is intended to provide and promote the acquisition and construction of housing that is affordable for current and future generations of Harpswell residents.

#### **11.18.2. Applicability**

##### **11.18.2.1 Single Lot Development Standards**

Notwithstanding any other provision of this ordinance to the contrary, a Workforce Housing Unit may be built upon a lot, located outside of the shoreland zone and in lawful existence as of March 13, 2010 but that does not meet the Section 11.1 minimum lot size requirements, subject to an acceptable soils test and an engineering design for a single family subsurface wastewater disposal system approved by the Codes Enforcement Officer of the Town of Harpswell and the following requirements:

a. Lot Size

A lot with a minimum area of 20,000 square feet may be used for a single Workforce Housing Unit.

b. Road Setback

If there is a predominate pattern of development in the immediate neighborhood with respect to the relationship of the principal structure to the road as determined by the Codes Enforcement Officer, the Workforce Housing Unit must be located on the lot so that it has a similar relationship to the road as other neighboring principal structures on the same side of the road. If this requires the Workforce Housing Unit to be closer to the front lot line than the required front yard setback, the Workforce Housing Unit may encroach into the front setback area and no variance is required.

**Comment [MSOffice1]:** The predominant pattern means the average setbacks from the road or sideyards in an existing neighborhood.

c. Sideyard Setback

If there is a predominate pattern of development in the immediate neighborhood with respect to the relationship of the principal structure to side yards as determined by the Codes Enforcement Officer, the Workforce Housing Unit must be located on the lot so that it has a similar relationship to the side yards as other neighboring principal structures on the same side of the road. If this requires the Workforce Housing Unit to be closer to the side yard lot line(s) than the required side yard setback, the Workforce Housing Unit may encroach into the side setback area(s) and no variance is required.

Prior to issuance of a building permit for a single Workforce Housing Unit, the Workforce Housing Lot shall be subjected to a Workforce Housing Covenant as set forth in Section 11.18.3.5 and that is recorded at the Cumberland County Registry of Deeds. The applicant shall provide a copy of the recorded instrument to the Codes Enforcement Officer.

**11.18.2.2 New Subdivisions**

Applications for new subdivisions may provide permanently restricted Workforce Housing Lots or Units by means of one or more of the following, as determined by the Planning Board:

- a) Provide one (1) or more permanently restricted Workforce Housing Lots or Units within the project; or
- b) Provide one (1) or more off-site permanently restricted Workforce Housing Lots or Units.

**11.18.2.3.** Notwithstanding any other provision of this ordinance to the contrary, two or more Workforce Housing Lots or Units may share a subsurface wastewater disposal system, subject to review and approval of the Codes Enforcement Officer.

**Comment [MSOffice2]:** This is already allowed under current ordinances.

**11.18.2.4** An applicant who is qualified to purchase a Workforce Housing Lot or Unit under this Section at the time of purchase of such Lot or Unit shall not be required to vacate such Lot or Unit due to a subsequent increase in income, provided that said applicant otherwise remains in compliance with this Section and any rules and regulations adopted by the Board of Selectmen for its management.

**Comment [MSOffice3]:** Provision intended not to penalize applicants who improve their financial status after acquiring a Lot or Unit but who are initially financially qualified. **The Workforce Housing Covenant and restrictions will govern the sale of Lots or Units.**

**11.18.3 Standards for Development of Workforce Housing Subdivisions**

**11.18.3.1 Density Bonus Provisions.** If a subdivision application provides Workforce Housing Lots or Units, the subdivision shall be eligible for a density bonus of one (1) additional market rate lot or unit for each moderate income Workforce Housing Lot or Unit and two (2) additional market rate lots or units for each low or very low income Workforce Housing Lot or Unit. Non-bonus lots shall meet all requirements of this ordinance and the Subdivision Ordinance. The reduced minimum lot size of 20,000 sq. ft., as allowed in Section 11.18.2.1a, shall apply only to the creation of Workforce Housing Lots

or bonus lots in a new subdivision. No density bonus shall be applied where offsite Workforce Housing Lots or Units are provided.

**Comment [MSOffice4]:** The effect of this section: if one Workforce Lot/Unit is required and the project provides four Workforce Lots/Units, then bonus lot(s) are allotted to the overall project. These lots may be market rate lots/units, which may use the reduced minimum lot size of 20,000 sq ft.

The following chart illustrates calculations under this subsection:

<u>Proposed Units/Lots in subdivision</u>	<u># of Market Rate Units or Lots</u>	<u># of Moderate Income Workforce Housing Units/Lots</u>	<u># of Low/Very Low Income Workforce Housing Units/Lots</u>	<u>Bonus Market Rate Units/Lots Allowed</u>	<u>Total # of Units/Lots Possible</u>
<u>3</u>	<u>2</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>4</u>
<u>5</u>	<u>4</u>	<u>0</u>	<u>1</u>	<u>2</u>	<u>7</u>
<u>5</u>	<u>3</u>	<u>1</u>	<u>1</u>	<u>3</u>	<u>8</u>
<u>6</u>	<u>5</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>7</u>
<u>6</u>	<u>5</u>	<u>0</u>	<u>1</u>	<u>2</u>	<u>8</u>
<u>10</u>	<u>8</u>	<u>2</u>	<u>0</u>	<u>2</u>	<u>12</u>

For example, if developer/applicant proposes a three (3) lot subdivision and one of those lots is affordable at the moderate income level, a bonus market rate lot would be allowed and then the total number of lots allowed would be four (4). If the developer/applicant proposes a five (5) lot subdivision and one (1) of those lots is affordable at the low income level, then the developer/applicant gains two (2) additional or “bonus” lots which may be market rate for a total of seven (7) lots. The same analysis and calculations apply to units.

**11.18.3.2 Plan Notations and Recorded Documentation of Affordability.** A note shall be added to all subdivision plans designating the lots or units that shall be permanently restricted Workforce Housing Lots or Units. The Workforce Housing Covenant shall be recorded in the Cumberland County Registry of Deeds concurrently with the recording of the approved plan. A copy of the recorded instrument shall be provided to the Codes Enforcement Officer within thirty (30) days after recording. Any deed or conveyance of title to a Workforce Housing Lot or Unit shall include reference to the recorded Workforce Housing Covenant imposed upon the initial approval of such Unit or Lot and failure to do so shall constitute a violation of this ordinance.

**11.18.3.3 Location.** Workforce Housing Lots and Units shall, to the greatest extent possible, be geographically dispersed throughout the subdivision or, if developed offsite, throughout the town.

**11.18.3.4 Neighborhood Compatibility.** The appearance and design of Workforce Housing Units on Workforce Housing Lots shall be compatible with the appearance and design of dwellings in the remainder of the subdivision. Exterior designs of the outside facades of both the market rate units and Workforce Housing Units shall be submitted to the Planning Board during the subdivision review process.

**11.18.3.5. Workforce Housing Covenant.** During the Planning Board review process and prior to final approval of a subdivision that includes Workforce Housing Lots or Units, the applicant shall submit to the Board of Selectmen, for approval on behalf of the Town, an executed Workforce Housing Covenant agreement that preserves the long-term affordability of the Workforce Housing Lots or Units to very low, low and moderate income households. The agreement must be in a form acceptable to the town and include, at a minimum, provisions for the following:

- a) Permanent affordability for low and moderate income buyers;
- b) A formula for accruing limited equity recapture to the owner of a Workforce Housing Lot or Unit which includes approved physical improvements;
- c) Enforcement provisions;
- d) Administrative costs to the Town; and
- e) Supervision of the agreement

The Planning Board shall not grant final subdivision approval until the Board of Selectmen has approved the Workforce Housing Covenant agreement.

**11.18.3.6 Development of Workforce Housing Lots**

For subdivisions for which the applicant chooses not to develop the Workforce Housing Unit or Workforce Housing Lot, the applicant may convey the Unit or Lot to a non-profit corporation recognized under state and federal law as qualified to accept funding for the development of Workforce Housing. The non-profit corporation shall complete the Unit or Lot pursuant to the provisions of this Section.

**11.18.3.7 Off Site Option.**

The Planning Board is authorized to allow acquisition and construction of Workforce Housing Lots or Units offsite. If the applicant chooses to utilize the offsite option for Workforce Housing Lots or Units, the applicant may join with others to provide the units through new off site construction or renovation of existing offsite structures.

Any deed or conveyance of title to an offsite Workforce Housing Lot or Unit shall include reference to the recorded Workforce Housing Covenant imposed upon the initial approval of such Lot or Unit and failure to do so shall constitute a violation of this ordinance.

**Comment [MSOffice5]:** Violations of the Basic Land Use ordinance are deemed a nuisance and action may be sought by the Town in Superior or District Court.

**11.18.3.8 Administration of Workforce Housing.**

The Town may contract with a qualified individual or entity for the administration of Workforce Housing Lots or Units for the screening of qualifying potential purchasers and the long term monitoring and administration of this Section. The costs for administration of the Workforce Housing provisions of this ordinance shall be paid for out of the Workforce Housing Fund.

#### **11.18.4 Qualified Buyers**

Preference for buyers of Workforce Housing Lots or Units shall be given to Town residents, persons employed in the Town, persons with family members or relatives in Town, and former Town residents who wish to re-establish Town residency.

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The Town of Harpswell Subdivision Ordinance shall be amended by inserting a new section as follows:

#### **Section 9.18 Workforce Housing**

Any subdivision that is to include Workforce Housing Units or Lots shall comply with Section 11.18, Workforce Housing, of the Town's Basic Land Use Ordinance, as may be amended from time to time.

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The Town of Harpswell Definitions Addendum shall be amended to add the following definitions in alphabetical order:

**Brunswick Labor Market Area** – The median family income most recently published by the Maine State Housing Authority for the Brunswick region.

**Equity Recapture** - A resale formula included in a Workforce Housing Covenant that controls the sale price of a Workforce Housing Lot or Workforce Housing Unit. The purpose of a resale formula is to maintain long-term affordability, discourage speculation, assure the continued availability of workforce housing, and ensure moderate long term equity gain to the owner of any Workforce Housing Lot and Unit approved under the Workforce Housing provisions of the Basic Land Use Ordinance, as may be amended from time to time.

**Gross Income** - The income from all sources of all household members who reside in a Workforce Housing Lot or Unit.

**Qualified Buyers** – Persons who meet the income requirements of a very low, low or moderate income household and who purchase Workforce Housing Lots or Units.

**Workforce Housing** - Housing designed with the express intent of providing owner-occupied decent, safe, and sanitary living accommodations that are affordable to lower income households and moderate income households, in accordance with the following definitions:

**Very low income household** - A household with a gross income less than or equal to 50% of the Brunswick Labor Market Area.

**Low income household** - A household with a gross income over 50%, but less than or equal to 80%, of the Brunswick Labor Market Area.

**Moderate income household** - A household with a gross income more than

**Comment [MSOffice6]:** This affordability index is updated annually and is an index appropriate/applicable to Harpswell area.

**Comment [MSOffice7]:** To preserve the affordability of housing under this Subsection, applicants and/or applicants are required, prior to final approval of a subdivision under this Ordinance, to put in place a resale formula, approved by the Planning Board, for the sale of the Workforce Housing Lots and Units in such subdivision. See "Workforce Housing Covenant" definition above.

**Comment [MSOffice8]:** Definition used by various funding organizations who may use this Ordinance. May be adjusted, depending upon the program under which construction of a lot/unit is funded.

**Comment [MSOffice9]:** Income definitions are used by various funding organizations who may use this Ordinance.

80%, but less than or equal to 120%, of the Brunswick Labor Market Area.

**Workforce Housing Covenant** – An agreement for the development of a Workforce Housing Lot or Workforce Housing Unit which legally and permanently restricts the ownership and use of such Workforce Housing Lot or Workforce Housing Unit. Such agreement shall be between the Town and the applicant and shall be recorded in the Cumberland County Registry of Deeds prior to the issuance of a building permit, if for a single Workforce Housing Lot or Unit, or concurrently with the recording of any approved subdivision plan that includes a Workforce Housing Lot or Unit, if for a subdivision.

**Comment [MSOffice10]:** Draft restrictive covenant agreement being developed by the Affordable Housing Committee for review and approval of Selectmen and use of the Planning Board. The existence of such an agreement will provide guidance to applicants and allow the Planning Board to focus on more typical subdivision issues.

**Workforce Housing Fund** – A separate dedicated reserve account established by Town Meeting to be managed at the direction of the Board of Selectmen for the receipt and management, in accordance with the provisions of the Basic Land Use Ordinance on Workforce Housing, of the following: gifts of land, housing, and other property useful in the administration of Section 11.18 of the Basic Land Use Ordinance, as may be amended from time to time; grants; and monetary donations. The Workforce Housing Fund shall be utilized solely for the construction, acquisition, and maintenance of Workforce Housing as defined herein and for the cost of administering workforce housing programs consistent with the Workforce Housing provisions of the Basic Land Use Ordinance, as may be amended from time to time.

**Workforce Housing Lot** - A residential lot of land for owner-occupied single family residential use that has been permanently protected for long term affordability by means of a covenant or other mechanism that includes an Equity Recapture formula which is recorded in the Cumberland County Registry of Deeds.

**Workforce Housing Unit**- A residential structure on a lot of land for owner-occupied single family residential use that has been permanently protected for long term affordability by means of a covenant or other mechanism that includes an Equity Recapture formula which is recorded in the Cumberland County Registry of Deeds.